

Message Text

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PAGE 01 STATE 168816
ORIGIN L-03

INFO OCT-01 AF-10 ARA-10 EA-10 EUR-12 NEA-10 ISO-00
AID-05 CEA-01 CIAE-00 COME-00 EB-08 FRB-03 INR-10
IO-13 NSAE-00 ICA-11 OPIC-03 SP-02 TRSE-00 LAB-04
SIL-01 AGRE-00 OMB-01 SS-15 FTC-01 JUSE-00 SEC-01
OIC-02 /137 R

DRAFTED BY L:M B FELDMAN:LHS

APPROVED BY EUR:R VINE

EB/IFD/OIA - MS. GRIFFITHS

D - MR. SPIEGEL (INFO)

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FM SECSTATE WASHDC

TO AMEMBASSY LONDON

C O N F I D E N T I A L STATE 168816

E.O. 11652: XGDS-3

TAGS: EGEN, EINV, ECOSOC, UN

SUBJECT: AGREEMENT ON ILLICIT PAYMENTS

REFS: (A) STATE 168316; (B) STATE 168317; (C) STATE 147642

1. AT INSTANCE OF U.K., U.S. ACCEPTED TEXT FOR OECD
MINISTERIAL COMMUNIQUE WHICH EXPRESSED THE WISH OF
MINISTERS THAT "SUBSEQUENT" PROGRESS WOULD PERMIT THAT A
CONFERENCE OF PLENIPOTENTIARIES COULD BE CONVENED AT
EARLIEST POSSIBLE DATE. OWEN'S LETTER TO SECRETARY, DATED
JUNE 13, EMPHASIZES NEED FOR RECIPROCAL OBLIGATIONS BY HOME
AND HOME AND HOST AND HOME COUNTRIES AND STATES U.K. VIEW
THAT WORK HAD NOT PROGRESSED FAR ENOUGH AS OF THAT DATE
TO BRING AGREEMENT WITHIN REACH.

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2. IT IS INCREASINGLY CLEAR THAT U.K. AND FRG ARE THE
ONLY SIGNIFICANT OECD COUNTRIES HOLDING BACK FROM INTER-
NATIONAL AGREEMENT ON ILLICIT PAYMENTS BASED ON CRIMINALI-
ZATION BY HOME AND HOST COUNTRIES, EXTRADITION AND
JUDICIAL ASSISTANCE. FINAL MEETING OF ECOSOC WORKING
GROUP ON CORRUPT PRACTICES MADE SUBSTANTIAL PROGRESS IN
ELIMINATING DISAGREEMENTS ON IMPORTANT ISSUES AND CUL-

MINATED WITH RECOMMENDATION THAT ECOSOC RE-EXAMINE QUESTION

OF DIPLOMATIC CONFERENCE WITH A VIEW TO SETTING EARLY DATE FOR CONFERENCE (REF A). IT IS SIGNIFICANT THAT DEVELOPING COUNTRIES HAVE JOINED EMERGING CONSENSUS WHICH FIRST BECAME APPARENT AT PARIS OECD CONSULTATIONS AT END OF MAY.

3. WE BELIEVE A STRONG CASE CAN NOW BE MADE TO HMG THAT "SUBSEQUENT" PROGRESS NOTED BY OECD MINISTERS HAS BEEN ACHIEVED MORE RAPIDLY THAN ANYONE ANTICIPATED AND THAT U.K. THEREFORE SHOULD JOIN U.S. AND OTHERS IN SUPPORTING ECOSOC DECISION TO CONVENE A DIPLOMATIC CONFERENCE IN THE FALL OF 1979, OR AT LEAST IN THE SPRING OF 1980 (REF B). FYI: U.K. REP TO WORKING GROUP (MINGAY) APPEARS PERSONALLY SUPPORTIVE OF AGREEMENT AND IS CERTAIN TO REPORT SIGNIFICANT SUBSTANTIVE PROGRESS AS WELL AS WARM, POSITIVE ATMOSPHERE IN WHICH THE WORKING GROUP WOUND UP ITS WORK. IN ADDITION, MINGAY PREVIOUSLY INDICATED THAT THIS MATTER WOULD GO TO THE CABINET FOR A DECISION IN JULY. END FYI. AS ECOSOC MAY REACH THIS ISSUE WEEK OF JULY 17, WE WOULD LIKE YOU (AT YOUR DISCRETION IN LIGHT OF REF C) TO RAISE THE ISSUE WITH FOREIGN SECRETARY AND SENIOR TRADE OFFICIALS ON URGENT BASIS.

4. IN DISCUSSING THIS MATTER YOU MAY WISH TO MAKE THE FOLLOWING POINTS:
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A. SUBSTANTIVE ELEMENTS OF PROGRESS OF INTEREST TO U.K. INCLUDE:

1. WORKING GROUP ACCEPTANCE OF FORMULA FOR HOME COUNTRY CRIMINALIZATION OF BRIBERY WHICH INCLUDES CONCEPT OF TERRITORIAL LINK AND A RELATIVELY NARROW DEFINITION OF THE OFFENSE;

2. U.S. WITHDRAWAL OF PROPOSALS FOR REPORTING AND DISCLOSURE AND WORKING GROUP ACCEPTANCE OF RECORD-KEEPING OF AGENTS' FEES FOR USE IN CONTEXT OF JUDICIAL ASSISTANCE FOR CRIMINAL PROCEEDINGS WHICH PROVISIONS ARE NOT RPT NOT APPLICABLE TO FOREIGN SUBSIDIARIES;

3. DELETION OF PROVISIONS RELATING TO TAX TREATMENT OF BRIBES;

4. TENTATIVE ACCEPTANCE OF DEFINITION OF PUBLIC OFFICIAL IN LINE WITH U.K. THINKING.

B. EMERGENCY OF G-77 SUPPORT FOR AGREEMENT. FOR FIRST

TIME G-77 TOOK POSITIONS ON BRIBERY ISSUES AND DISPLAYED
A WILLINGNESS TO COMPROMISE.

C. CONTRARY TO EXPECTATIONS, G-77 DID NOT MAKE AN ISSUE
OF SOUTHERN AFRICA IN THIS FORUM. PROPOSALS TO PROHIBIT
PAYMENTS OF TAXES AND ROYALTIES TO "ILLEGAL MINORITY
REGIMES IN SOUTHERN AFRICA" WERE NOT EVEN DEBATED.
ALTHOUGH AFRICAN REPS MADE STATEMENTS THAT THEY CONTINUE
TO ATTACH IMPORTANCE TO THESE ISSUES, WE COULD SCARCELY
EXPECT THEM TO DO LESS.

5. THERE WAS CLEAR IMPRESSION AT CLOSE OF MEETING THAT
WORKING GROUP BELIEVED IT HAD COMPLETED ITS TASK AND WORK
SHOULD NOW BE MOVED INTO A NEW STAGE, I.E. A DIPLOMATIC
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CONFERENCE AND PREPARATIONS THEREFOR. FYI. WE ARE CON-
FIDENT THAT ECOSOC WILL APPROVE PREPARATORY WORK FOR
DIPLOMATIC CONFERENCE BUT EXPECT OPPOSITION FROM FRG AND
SOME LDC'S TO SETTING FIRM DATE FOR DIPLOMATIC CONFERENCE.
OPPONENTS NO DOUBT HOPE THAT AN AGREEMENT STILL MIGHT BE
AVOIDED SO LONG AS DATE FOR DIPLOMATIC CONFERENCE IS NOT
SET. WE WILL PRESS FOR FIRM DATE IN 1979, OR 1980 IF
NECESSARY, PRECISELY TO FORECLOSE THIS POSSIBILITY. OUR
BEST INFORMATION ON OECD ATTITUDES IS THAT JAPAN, NETHER-
LANDS, DENMARK, CANADA, SWEDEN AND AUSTRALIA, PROBABLY
CAN SUPPORT A CONFERENCE IN 1979; SWISS, AND POSSIBLY
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DRAFTED BY:L/EB:MR WILLIS

APPROVED BY:L/EB:MR WILLIS

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FM SECSTATE WASHDC
TO AMEMBASSY BONN PRIORITY

C O N F I D E N T I A L STATE 168816

FOLLOWING REPEAT STATE 168816 ACTION LONDON DATED JULY 4, 1978.

QUOTE: C O N F I D E N T I A L STATE 168816

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UNQUOTE CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT, CORRUPTION, BRIBERY
Control Number: n/a
Copy: SINGLE
Draft Date: 04 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE168816
Document Source: CORE
Document Unique ID: 00
Drafter: M B FELDMAN:LHS
Enclosure: n/a
Executive Order: X3
Errors: N/A
Expiration:
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From: STATE
Handling Restrictions: n/a
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Litigation Code IDs:
Litigation Codes:
Litigation History:
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 168316, 78 STATE 168317, 78 STATE 147642
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 07 jun 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2122104
Secure: OPEN
Status: NATIVE
Subject: AGREEMENT ON ILLICIT PAYMENTS
TAGS: EGEN, EINV, US, UK, ECOSOC, UN
To: LONDON
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/acbc7c7b-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014